

JEFFREY H. LOWENTHAL (State Bar No.111763)
EDWARD EGAN SMITH (State Bar No.169792)
SIMON R. GOODFELLOW (State Bar No. 246085)
STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP
One California Street, Third Floor
San Francisco, California 94111
Telephone: (415) 421-3400
Facsimile: (415) 421-2234

Attorneys for Plaintiff Mortgage Electronic
Registration System, Inc. as nominee for GMAC
Mortgage, LLC formerly known as GMAC
Mortgage Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)

MORTGAGE ELECTRONIC
REGISTRATION SYSTEM, INC. as
nominee for GMAC Mortgage, LLC
formerly known as GMAC Mortgage
Corporation,

Plaintiff,

vs.

STACEY REINECCIUS, ELAINE DIANE
STATHAKIS, EMPLOYMENT
DEVELOPMENT DEPARTMENT -
STATE OF CALIFORNIA,
DEPARTMENT OF TREASURY -
INTERNAL REVENUE SERVICE, and
DOES 1 through 50, inclusive,

Defendants.

CASE NO. 3:07-cv-04290 - MHP

**JOINT CASE MANAGEMENT
STATEMENT**

Date: January 14, 2008
Time: 4:00 p.m.
Judge: Hon. Marilyn Hall Patel
Location: Courtroom 15, 18th Floor

1 Plaintiff Mortgage Electronic Registration System, Inc. as nominee for GMAC
 2 Mortgage, LLC formerly known as GMAC Mortgage Corporation, defendants United States of
 3 America, Department of Treasury-Internal Revenue Service ("IRS"), State of California,
 4 California Employment Development Department ("EDD") and Stacey Reineccius submit the
 5 following joint case management statement.

6 DESCRIPTION OF CASE

7 1. A brief description of the events underlying the action:

8 On or about March 31, 2006, plaintiff's predecessor loaned defendant Stacey
 9 Reineccius a total \$1,273,000 secured by a first and second deed of trust against Reineccius'
 10 property at 466 8th Street, San Francisco, California. Defendant IRS claims a federal tax lien
 11 against the subject property in the amount of \$1,025,455 and defendant EDD claims a state tax
 12 lien against the subject property in the amount of \$219,920, both of which predate plaintiff's
 13 deeds of trust. \$1,266,921 of the loan proceeds were used to pay off liens and other interests in
 14 the subject property which predated the IRS and EDD liens. On or about October 11, 2007,
 15 plaintiff foreclosed and acquired the subject property at trustee's sale. In the event it is
 16 determined that plaintiff's interest in the subject property is subject to all or part of defendants'
 17 liens, plaintiff claims the right under the doctrine of equitable subrogation to an equitable lien
 18 of \$1,266,921 plus interest, senior in priority to defendants' liens against the subject property.
 19 Caito v. United California Bank (1978) 20 Cal. 3d 694, 704; and Katsivalis v. Serrano
 20 Reconveyance Co. (1977) 70 Cal. App. 3d 200.

21 2. The principal factual issues which the parties dispute:

22 Plaintiff and Reineccius dispute the amount of the IRS and EDD liens. The IRS and
 23 EDD dispute the amount of plaintiff's equitable lien.

24 3. The principal legal issues which the parties dispute:

25 The validity of the IRS and EDD liens, and, if necessary, the applicability of the
 26 doctrine of equitable subrogation and the amount and priority of plaintiff's equitable lien.

27 ///

4. The other factual issues (e.g. service of process, personal jurisdiction, subject matter jurisdiction or venue) which remain unresolved for the reason stated below and how the parties propose to resolve those issues:

The parties are not aware of any.

5. The parties which have not been served and the reasons:

The parties are not aware of any.

6. The additional parties which the below-specified parties intend to join and the intended time frame for such joinder:

The parties are not aware of any.

7. The following parties consent to assignment of this case to a United States Magistrate Judge for (court or jury) trial:

Plaintiff did not consent to trial by a Magistrate Judge.

ALTERNATIVE DISPUTE RESOLUTION

8. Please indicate the appropriate responses:

The parties have not filed a Stipulation and Proposed Order selecting an ADR Process.

9. Please indicate any other information regarding ADR process or deadline:

Plaintiff and Reineccius request an early settlement conference before a Magistrate Judge.

DISCLOSURES

10. The parties certify that they have made the following disclosures (list disclosures of persons, documents, damage computations and insurance agreements):

Plaintiff and the IRS have made their initial disclosures. Reineccius and the EDD will make their initial disclosures prior to the Case Management Conference. In the event that all initial disclosure are not made by the Case Management Conference, plaintiff requests an order requiring that initial disclosure be made by a date certain.

///

///

///

///

DISCOVERY

11. The parties agree to the following discovery plan (Describe the plan, e.g., any limitation on the number, duration or subject matter for various kinds of discovery; discovery from experts; deadlines for completing discovery):

a. Parties

The parties are unable to propose a discovery plan until all initial disclosures are made.

TRIAL SCHEDULE

12. The parties request a trial date as follows:

Unknown.

13. The parties expect that the trial will last for the following number of days:

1 - 2 days.

Dated: January 4, 2008

STEYER LOWENTHAL BOODROOKAS
ALVAREZ & SMITH LLP

By: /s/ Jeffrey H. Lowenthal

/s/ Edward Egan Smith

Jeffrey H. Lowenthal
Edward Egan Smith
Attorneys for Plaintiff Mortgage
Electronic Registration System, Inc. as
nominee for GMAC Mortgage, LLC
formerly known as GMAC Mortgage
Corporation

Dated: January 4, 2008

By: /s/ Cynthia Stier

Attorney for Defendant Department of the
Treasury, Internal Revenue Service

Dated: January 4, 2008

By: /s/ Marguerite Stricklin

Attorneys for Defendant Employment
Development Dept.

//

1 Dated: January 4, 2008

ZACKS, UTRECHT & LEADBETTER, PC

2
3 By: /s/ Paul F. Utrecht
4 Attorneys for Defendant Stacey
Reineccius
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28